

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

CRIMINAL NO. 20-062 (ADC)

ERASCAR JAVIER ENCARNACION-MORETA,  
*Defendant.*

MOTION RE: AMENDMENT 821

TO THE HONORABLE COURT:

The defendant, Erascar Javier Encarnación-Moreta (“Mr. Encarnacion”), represented by the Federal Public Defender for the District of Puerto Rico through the undersigned attorney respectfully states:

- 1) On April 27, 2023, the United States Sentencing Commission (“USSC”) voted to promulgate Amendment 821 to the Sentencing Guidelines, which would revise how a defendant’s criminal history category is computed.
- 2) As relevant to this motion, Part B, Subpart 1 of Amendment 821 creates a new Chapter Four guideline at section 4C1.1 to provide a decrease of two levels for “Zero-Point Offenders”—defendants who have no criminal history points—whose offense did not involve specific aggravating factors.
- 3) On August 24, 2023, the USSC approved by majority vote to make Part B retroactive, effective November 1, 2023.
- 4) Mr. Encarnacion is currently serving a term of imprisonment for a controlled substance offense conviction. He was sentenced on November 3, 2021, to

a term of imprisonment of 87 months as to Count One of the Indictment. (*See* Judgment, Docket No. 92.)

5) After conducting a preliminary review of the record, it appears that Mr. Encarnacion is a “Zero-point Offender” and would be eligible for a modification of his sentence under 18 U.S.C § 3582(c)(2) relating to this retroactive amendment.

In lieu of the above, Mr. Encarnacion requests that the Court take notice of the present motion for reduction of sentence and that the above-captioned case be referred to a United States Magistrate Judge for initial screening for purposes of determining eligibility.

I certify that on this date I electronically filed the present motion with the Clerk of Court using the CM/ECF system, which will and electronic notification of this filing to all parties of record.

In San Juan, Puerto Rico, this 4<sup>th</sup> of December of 2023.

RACHEL BRILL  
Federal Public Defender  
District of Puerto Rico

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